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Message Text

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ACTION STR-07

INFO OCT-01 EUR-12 EA-10 IO-13 ISO-00 STRE-00 AGRE-00
CEA-01 CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01
INR-10 INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01
CTME-00 AID-05 SS-15 ITC-01 TRSE-00 USIA-06 SP-02
SOE-02 OMB-01 DOE-15 AF-10 ARA-10 NEA-10 OIC-02
/163 W
----------107494 231926Z /62
P 231849Z MAR 78
FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 7621
INFO AMEMBASSY BRUSSELS
INFO AMEMBASSY TOKYO

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USMTN USEEC

ACTION STR FOR GREENWALD, KELLY, FEKETEKUTY

E.O. 11652 N/A
TAGS: ETRD, MTN
SUBJECT: INFORMAL PLURILATERALS ON DISPUTE-MANAGEMENT "UNDERSTANDING," MARCH 13 AND 17

REF: GENEVA 3720

1. PER REFTEL, USMTN DEL HAS INITIATED INFORMAL DISCUSSION AMONG DCS ON "DISPUTE MANAGEMENT" (NOTIFICATION, CONSULTATION, DISPUTE SETTLEMENT PROCEDURES AND SURVEILLANCE) USING MTN DEL DRAFT "UNDERSTANDING" AS DISCUSSION TEXT (COPY HANDCARRIED MARCH 7 TO GREENWALD, STR). TWO SESSIONS MARCH 13 AND 17 CONVENED WITH RECOGNITION THAT "CROSS-CUTTING" DISCUSSION NOT TO BE EXPLICITLY LINKED TO ANY PARTICULAR MTN GROUP, ALTHOUGH
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EFFORT SHOULD BE MADE TO GENERATE AND/OR FACILITATE ULTIMATE RESULTS IN FRAMEWORK GROUP (FG) AS WELL AS INDIVIDUAL SUBJECT MATTER CODES.

2. U.S. (MARK) INTRODUCED DRAFT DM "UNDERSTANDING" AS INFORMAL NON-PAPER CONTAINING ELEMENTS U.S. THINKS IMPORTANT UNDER PARTICULAR CODES AND UNDER GATT ARTS.

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XXII - XXIII GENERALLY. DRAFT INTENDED TO PROMOTE DISCUSSION GOING BEYOND USUAL GENERALITIES--HENCE CERTAIN DEGREE OF DETAIL, ALTHOUGH COUCHED IN QUALIFIED OR ILLUSTRATIVE TERMS--BUT WE REMAIN FLEXIBLE ON SPECIFIC WORDING OR FORMAT. JAPAN (HOSHI), SWITZERLAND (EBERHARD), NORDICS (LIAN) AND AUSTRALIA (SPENCER) AGREED TO NEED FOR SEEKING "COMMON GROUND" ON DISPUTE-MANAGEMENT PRINCIPLES, ADAPTED AS NECESSARY TO PARTICULAR NEEDS OF CODES. AS EXPECTED (SEE REFTEL), EC (ADINOLFI) BERATED U.S. FOR PRODUCING "INAPPROPRIATE" AND "EXCESSIVELY LEGALISTIC" TEXT, BUT WAS FAIRLY ISOLATED THROUGHOUT; SWISS IN PARTICULAR CRITICIZED "LUDICROUS" EC POSITION RESISTING DEVELOPMENT OF BETTER SYSTEM FOR RESOLVING DISPUTES ON GROUNDS THAT SOME EXISTING COMMITMENTS NOT UNIVERSALLY RESPECTED. CANADA (WEEKES) ADDED THAT BETTER SYSTEM OUGHT TO ENCOURAGE WIDER ADHERENCE.

3. KEY SUBSTANTIVE POINTS ADDRESSED DURING TWO SESSIONS CONCERNED (A) U.S. DESIRE FOR "BLANKET" NOTIFICATION OBLIGATION--WITH EC AND AUSTRALIA LEADING RESISTANCE, AND SWISS SUPPORTING U.S. (B) EXTENSION OF NOTIFICATION/ CONSULTATION OBLIGATIONS TO PROPOSED MEASURES "AFFECTING COMMERCIAL POLICY OR PRACTICE"--AUSTRALIA ARGUED THAT SUCH CONSULTATIONS SUBSUMED UNDER NORMAL DIPLOMATIC ACTIVITY AND NEED NOT BE FORMALIZED; (C) TRANSITION FROM CONSULTATION STAGE TO MULTILATERAL CONCILIATION/REVIEW--
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SEVERAL PARTICIPANTS EXPRESSED MISGIVINGS RE DETERMINA-TION OF "REASONABLE PROGRESS" IN AND "URGENCY" OF PARTI-CULAR CASES, ALTHOUGH U.S. ARGUED THAT "RULE OF REASON" WAS PROBABLY MOST THAT WOULD BE EXPECTED; AND (D) SPECIFICATION OF "ILLUSTRATIVE" TIME LIMITS FOR CONSULTATION PROCESS--WITH SWISS ARGUING STRONGLY IN SUPPORT OF U.S. FORMULATION BUT PREFERRING TO AVOID MENTION OF "CONTINUATION (OF CONSULTATIONS) BY MUTUAL CONSENT" (PRESUMABLY TO PROTECT INTERESTED BUT NON-CONSULTING THIRD PARTIES).

4. DISCUSSION TOUCHED ONLY BRIEFLY ON MULTILATERAL REVIEW SECTION OF DRAFT (I.E., DETAILS OF PANEL PROCESS), AND MOST PARTICIPANTS FELT AT LEAST ONE ADDITIONAL SESSION AMONG DCS NEEDED (TENTATIVELY, WEEK OF MARCH 27-31) BEFORE HOLDING COMBINED DC-LDC PLURILATERAL ON DRAFT "UNDERSTANDING."

5. COMMENT: DISCUSSIONS THUS FAR AND RECEPTIVITY TO CROSS-CUTTING APPROACH HAVE BENEFITED FROM CONCENTRATED ATTENTION TO THIS SUBJECT IN RECENT WORK ON STANDARDS, GOVERNMENT PROCUREMENT, AND INFORMAL SAFEGUARDS DRAFTING.

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MTN DEL IS INVOLVING BOTH FRAMEWORK/SAFEGUARDS AND NTM
OFFICERS IN THESE TALKS AS STANDARD OPERATING PROCEDURE.
END COMMENT.

6. DRAFTED BY MARK WECULBERT

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